

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DONALD R. CLUTE,)
)
Plaintiff,) Case No. 07-1594-HO
)
v.) ORDER
)
Commissioner of Social Security,)
)
Defendant.) _____
)

Plaintiff brings this proceeding to obtain judicial review of the Commissioner's final decision denying plaintiff's application for disability insurance benefits. Plaintiff asserts disability beginning April 2004, due to a combination of impairments. After a hearing, an administrative law judge (ALJ) determined that plaintiff is not disabled.

The ALJ determined, based on testimony from the vocational expert, that plaintiff could perform his past work as a buyer as he

actually performed it. However, plaintiff testified that as he performed his past work, he had to haggle with customers for up to 30 minutes at time and that because of his mental deficiencies he can not deal or communicate with people sufficiently to perform such work. Tr. 673-74. The ALJ rejected plaintiff's testimony, but did not provide reasoning beyond lack of objective medical support. Although the vocational expert asserted an opinion that a restriction to superficial contact with the public would not preclude plaintiff's past work, the ALJ did not include the limitation as explained by plaintiff. Accordingly, the case needs to be remanded to analyze plaintiff's assertion of limitations in dealing with people.

CONCLUSION

Pursuant to Sentence 4 of 42 U.S.C. § 405(g), the decision of the Commissioner reversed and remanded for further proceedings.

DATED this 17th day of March, 2009.

s/ Michael R. Hogan
UNITED STATES DISTRICT JUDGE